

ECONOMIC COOPERATION

Agreement signed at Lisbon September 28, 1948, with annex

Entered into force September 28, 1948

*Amended by agreements of February 14, 1950;¹ May 17, 1951;² and
March 9 and 18, 1953³*

62 Stat. 2856; Treaties and Other
International Acts Series 1819

ECONOMIC COOPERATION AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND PORTUGAL

PREAMBLE

The Governments of the United States of America and Portugal:

Recognizing that the restoration or maintenance in European countries of principles of individual liberty, free institutions, and genuine independence rests largely upon the establishment of sound economic conditions, stable international economic relationships, and the achievement by the countries of Europe of a healthy economy independent of extraordinary outside assistance;

Recognizing that a strong and prosperous European economy is essential for the attainment of the purposes of the United Nations;

Considering that the achievement of such conditions calls for a European recovery plan of self-help and mutual cooperation, open to all nations which cooperate in such a plan, based upon a strong production effort, the expansion of foreign trade, the creation or maintenance of internal financial stability and the development of economic cooperation, including all possible steps to establish and maintain valid rates of exchange and to reduce trade barriers;

Considering that in furtherance of these principles the Government of Portugal has joined with other like-minded nations in a Convention for European Economic Cooperation signed at Paris on April 16, 1948 under which the signatories of that Convention agreed to undertake as their immediate task the elaboration and execution of a joint recovery program, and that the Government of Portugal is a member of the Organization for European Economic Cooperation created pursuant to the provisions of that Convention;

¹ 1 UST 169; TIAS 2033.

² 2 UST 1298; TIAS 2279.

³ 4 UST 1437; TIAS 2801.

Considering also that, in furtherance of these principles the Government of the United States of America has enacted the Economic Cooperation Act of 1948,⁴ providing for the furnishing of assistance by the United States of America to nations participating in a joint program for European recovery, in order to enable such nations through their own individual and concerted efforts to become independent of extraordinary outside economic assistance;

Taking note that the Government of Portugal has already expressed its adherence to the purposes and policies of the Economic Cooperation Act of 1948;

Desiring to set forth the understandings which govern the furnishing of assistance by the Government of the United States of America under the Economic Cooperation Act of 1948, the receipt of such assistance by Portugal, and the measures which the two Governments will take individually and together in furthering the recovery of Portugal as an integral part of the joint program for European recovery;

Have agreed as follows:

ARTICLE I

(Assistance and Cooperation)

1. The Government of the United States of America undertakes to cooperate with the Government of Portugal in furthering the purposes set forth in the Preamble by facilitating the acquisition by Portugal of such commodities as it may require from the United States of America in carrying out the joint program for European recovery, and as may be agreed from time to time by the two Governments. This undertaking on the part of the Government of the United States of America is subject to all the terms, conditions and termination provisions of the Economic Cooperation Act of 1948, acts amendatory and supplementary thereto and appropriation acts thereunder.

2. The Government of Portugal, acting individually and through the Organization for European Economic Cooperation consistently with the Convention for European Economic Cooperation signed at Paris on April 16, 1948, will exert sustained efforts in common with other participating countries speedily to achieve through a joint recovery program economic conditions in Europe essential to lasting peace and prosperity and to enable the countries of Europe participating in such a joint recovery program to become independent of extraordinary outside economic assistance within the period of this Agreement. The Government of Portugal reaffirms its intention to take action to carry out the provisions of the General Obligation of the Convention for European Economic Cooperation, to continue to participate actively in the work of the Organization for European Economic Cooperation, and to continue to adhere to the purposes and policies of the Economic Cooperation Act of 1948.

⁴ 62 Stat. 137.

3. With respect to assistance furnished by the Government of the United States of America to Portugal and procured from areas outside the United States of America, its territories and possessions, the Government of Portugal will cooperate with the Government of the United States of America in ensuring that procurement will be effected at reasonable prices and on reasonable terms and so as to arrange that the dollars thereby made available to the country from which the assistance is procured are used in a manner consistent with any arrangements made by the Government of the United States of America with such country.

ARTICLE II

(General Undertakings)

1. In order to achieve the maximum recovery through the employment of assistance received from the Government of the United States of America, the Government of Portugal will use its best endeavors:

a) to adopt or maintain the measures necessary to ensure efficient and practical use of all the resources available to it, including

(i) such measures as may be necessary to ensure that the commodities and services obtained with assistance furnished under this Agreement are used for purposes consistent with this Agreement and, as far as practicable, with the general purposes outlined in the schedules furnished by the Government of Portugal in support of the requirements of assistance to be furnished by the Government of the United States of America; and

(ii) the observation and review of the use of such resources through an effective follow-up system approved by the Organization for European Economic Cooperation;

b) to promote the development of industrial and agricultural production on a sound economic basis; to achieve such production targets as may be established through the Organization for European Economic Cooperation;

c) to cooperate with other participating countries in facilitating and stimulating an increasing interchange of goods and services among the participating countries and with other countries and in reducing public and private barriers to trade among themselves and with other countries.

2. Taking into account Article 8 of the Convention for European Economic Cooperation looking toward the full and effective use of manpower available in the participating countries, the Government of Portugal will accord sympathetic consideration to proposals made in conjunction with the International Refugee Organization directed to the largest practicable utilization of manpower available in any of the participating countries in furtherance of the accomplishment of the purposes of this Agreement.

3. The Government of Portugal will take the measures which it deems appropriate, and will cooperate with other participating countries, to prevent, on the part of private or public commercial enterprises, business practices or business arrangements affecting international trade which restrain competition, limit access to markets or foster monopolistic control whenever such practices or arrangements have the effect of interfering with the achievement of the joint program of European recovery.

ARTICLE III

(Guaranties)

1. The Governments of the United States of America and Portugal will, upon the request of either Government, consult respecting projects in Portugal proposed by nationals of the United States of America and with regard to which the Government of the United States of America may appropriately make guaranties of currency transfer under section 111(b) (3) of the Economic Cooperation Act of 1948.

2. The Government of Portugal agrees that if the Government of the United States of America makes payment in United States dollars to any person under such a guaranty, any escudos, or credits in escudos, assigned or transferred to the Government of the United States of America pursuant to that section shall be recognized as property of the Government of the United States of America.

ARTICLE IV

(Access to Materials)

1. The Government of Portugal will facilitate the transfer to the United States of America, for stockpiling or other purposes, of materials originating in Portugal which are required by the United States of America as a result of deficiencies or potential deficiencies in its own resources, upon such reasonable terms of sale, exchange, barter or otherwise, and in such quantities, and for such period of time, as may be agreed to between the Governments of the United States of America and Portugal, after due regard for the reasonable requirements of Portugal for domestic use and commercial export of such materials. The Government of Portugal will take such specific measures as may be necessary to carry out the provisions of this paragraph, including the promotion of the increased production of such materials within Portugal, and the removal of any hindrances to the transfer of such materials to the United States of America. The Government of Portugal will, when so requested by the Government of the United States of America, enter into negotiations for detailed arrangements necessary to carry out the provisions of this paragraph.

2. The Government of Portugal, when so requested by the Government of the United States of America, will cooperate, wherever appropriate, to

further the objectives of paragraph 1 of this Article in respect of materials originating outside of Portugal.

ARTICLE V

(Travel Arrangements and Relief Supplies)

1. The Government of Portugal will cooperate with the Government of the United States of America in facilitating and encouraging the promotion and development of travel by citizens of the United States of America to and within participating countries.

2. The Government of Portugal will, when so desired by the Government of the United States of America, enter into negotiations for agreements (including the provision of duty-free treatment under appropriate safeguards) to facilitate the entry into Portugal of supplies of relief goods donated to or purchased by United States voluntary non-profit relief agencies and of relief packages originating in the United States of America and consigned to individuals residing in Portugal.

ARTICLE VI

(Consultation and Transmittal of Information)

1. The two Governments will, upon the request of either of them, consult regarding any matter relating to the application of this Agreement or to operations or arrangements carried out pursuant to this Agreement.

2. The Government of Portugal will communicate to the Government of the United States of America in a form and at intervals to be indicated by the latter after consultation with the Government of Portugal:

a) detailed information of projects, programs and measures proposed or adopted by the Government of Portugal to carry out the provisions of this Agreement and the General Obligations of the Convention for European Economic Cooperation;

b) full statements of operations under this Agreement, including a statement of the use of funds, commodities and services received thereunder, such statements to be made in each calendar quarter;

c) information regarding its economy and any other relevant information, necessary to supplement that obtained by the Government of the United States of America from the Organization for European Economic Cooperation, which the Government of the United States of America may need to determine the nature and scope of operations under the Economic Cooperation Act of 1948, and to evaluate the effectiveness of assistance furnished or contemplated under this Agreement and generally the progress of the joint recovery program.

3. The Government of Portugal will assist the Government of the United States of America to obtain information relating to the materials

originating in Portugal referred to in Article IV which is necessary to the formulation and execution of the arrangements provided for in that Article.

ARTICLE VII

(Publicity)

1. The Governments of the United States of America and Portugal recognize that it is in their mutual interest that full publicity be given to the objectives and progress of the joint program for European recovery and of the actions taken in furtherance of that program. It is recognized that wide dissemination of information on the progress of the program is desirable in order to develop the sense of common effort and mutual aid which are essential to the accomplishment of the objectives of the program.

2. The Government of the United States of America will encourage the dissemination of such information and will make it available to the media of public information.

3. The Government of Portugal will encourage the dissemination of such information both directly and in cooperation with the Organization for European Economic Cooperation. It will make such information available to the media of public information and take all practicable steps to ensure that appropriate facilities are provided for such dissemination. It will further provide other participating countries and the Organization for European Economic Cooperation with full information on the progress of the program for economic recovery.

4. The Government of Portugal will make public in Portugal in each calendar quarter, full statements of operations under this Agreement, including information as to the use of funds, commodities and services received.

ARTICLE VIII

(Missions)

1. The Government of Portugal agrees to receive a Special Mission for Economic Cooperation which will discharge the responsibilities of the Government of the United States of America in Portugal under this Agreement.

2. The Government of Portugal will, upon appropriate notification from the Ambassador of the United States of America in Portugal, consider the Special Mission and its personnel, and the United States Special Representative in Europe, as part of the Embassy of the United States of America in Portugal for the purpose of enjoying the privileges and immunities accorded to that Embassy and its personnel of comparable rank. The Government of Portugal will further accord appropriate courtesies to the members and staff of the Joint Committee on Foreign Economic Cooperation of the Congress of the United States of America, and grant them the facilities and assistance necessary to the effective performance of their responsibilities.

3. The Government of Portugal, directly and through its representatives on the Organization for European Economic Cooperation, will extend full cooperation to the Special Mission, to the United States Special Representative in Europe and his staff, and to the members and staff of the Joint Committee. Such cooperation shall include the provision of all information and facilities necessary to the observation and review of the carrying out of this Agreement, including the use of assistance furnished under it.

ARTICLE IX

(Settlement of Claims of Nationals)

1. The Governments of the United States of America and Portugal agree to submit to the decision of the International Court of Justice any claim espoused by either Government on behalf of one of its nationals against the other Government for compensation for damage arising as a consequence of governmental measures (other than measures taken by the Government of the United States of America concerning enemy property or interests) taken after April 3, 1948, by the other Government and affecting property or interest of such national, including contracts with or concessions granted by duly authorized authorities of such other Government. It is understood that the undertaking of the Government of the United States of America in respect of claims espoused by the Government of Portugal pursuant to this paragraph is made under the authority of and is limited by the terms and conditions of the recognition by the United States of America of the compulsory jurisdiction of the International Court of Justice under Article 36 of the Statute of the Court, as set forth in the Declaration of the President of the United States of America dated August 14, 1946.⁵

2. The Governments of the United States of America and Portugal further agree that such claims may be referred, in lieu of the Court, to any arbitral tribunal mutually agreed upon.

3. It is further understood that neither Government will espouse a claim pursuant to this Article until its national has exhausted the remedies available to him in the administrative and judicial tribunals of the country in which the claim arose.

4. The provisions of this Article shall be in all respects without prejudice to other rights of access, if any, of either Government, to the International Court of Justice or other arbitral tribunal or to the espousal and presentation of claims based upon alleged violations by either Government of rights and duties arising under treaties, agreements or principles of international law.

⁵ TIAS 1598, *ante*, vol. 4, p. 140.

ARTICLE X

(Definitions)

As used in this Agreement:

a) Portugal means the Republic of Portugal, (including the Azores Islands and the Madeira Islands), together with dependent areas under its administration, including the Cape Verde Islands, Portuguese Guinea, the fortress of Sao Joao Baptista de Ajuda, Sao Tome and Principe, Angola, Mozambique, Portuguese India (comprising Goa, Damao, Diu), Macao and Portuguese Timor.

b) The term "participating country" means

(i) any country which signed the Report of the Committee of European Economic Cooperation at Paris on September 22, 1947, and territories for which it has international responsibility and to which the Economic Cooperation Agreement concluded between that country and the Government of the United States of America has been applied, and

(ii) any other country (including any of the zones of occupation of Germany, and areas under international administration or control, and the Free Territory of Trieste or either of its zones) wholly or partly in Europe, together with dependent areas under its administration

for so long as such country is a party to the Convention for European Economic Cooperation and adheres to a joint program for European recovery designed to accomplish the purposes of this Agreement.

ARTICLE XI

(Entry into Force, Amendment, Duration)

1. This Agreement shall become effective on this day's date. Subject to the provisions of paragraphs 2 and 3 of this Article, it shall remain in force until June 30, 1953, and, unless at least six months before June 30, 1953, either Government shall have given notice in writing to the other of intention to terminate the Agreement on that date, it shall remain in force thereafter until the expiration of six months from the date on which such notice shall have been given.

2. If, during the life of this Agreement, either Government should consider there has been a fundamental change in the basic assumptions underlying this Agreement, it shall so notify the other Government in writing and the two Governments will thereupon consult with a view to agreeing upon the amendment, modification or termination of this Agreement. If, after three months from such notification, the two Governments have not agreed upon the action to be taken in the circumstances, either Government may give notice in writing to the other of intention to terminate this Agreement. Then,

subject to the provisions of paragraph 3 of this Article, this Agreement shall terminate six months after the date of such notice of intention to terminate; provided, however, that Article IV and paragraph 3 of Article VI shall remain in effect until two years after the date of such notice of intention to terminate, but not later than June 30, 1953.

3. Subsidiary agreements and arrangements negotiated pursuant to this Agreement may remain in force beyond the date of termination of this Agreement and the period of effectiveness of such subsidiary agreements and arrangements shall be governed by their own terms. Paragraph 2 of Article III shall remain in effect for so long as the guaranty payments referred to in that Article may be made by the Government of the United States of America.

4. This Agreement may be amended at any time by agreement between the two Governments.

5. The Annex to this Agreement forms an integral part thereof.

6. This Agreement shall be registered with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the respective representatives, duly authorized for the purpose, have signed the present Agreement.

DONE at Lisbon, in duplicate, in the English and Portuguese languages, both texts authentic, this 28th day of September, 1948.

LINCOLN MACVEAGH	[SEAL]
JOSÉ CAEIRO DA MATTA	[SEAL]

ANNEX

Interpretative Notes

1. It is understood that the requirements of paragraph 1 (a) of Article II, relating to the adoption of measures for the efficient use of resources, would include, with respect to commodities furnished under the Agreement, effective measures for safeguarding such commodities and for preventing their diversion to illegal or irregular markets or channels of trade.

2. It is understood that the business practices and business arrangements referred to in paragraph 3 of Article II mean:

- a) fixing prices, terms or conditions to be observed in dealing with others in the purchase, sale or lease of any product;
- b) excluding enterprises from, or allocating or dividing, any territorial market or field of business activity, or allocating customers, or fixing sales quotas or purchase quotas;
- c) discriminating against particular enterprises;
- d) limiting production or fixing production quotas;

- e) preventing by agreement the development or application of technology or invention whether patented or unpatented;
- f) extending the use of rights under patents, trade marks or copyrights granted by either country to matters which, according to its laws and regulations, are not within the scope of such grants, or to products or conditions of production, use or sale which are likewise not the subjects of such grants; and
- g) such other practices as the two Governments may agree to include.

3. It is understood that the Government of Portugal is obligated to take action in particular instances in accordance with paragraph 3 of Article II only after appropriate investigation or examination.

4. It is understood that the phrase in Article IV "after due regard for the reasonable requirements of Portugal for domestic use" would include the maintenance of reasonable stocks of the materials concerned and that the phrase "commercial export" might include barter transactions. It is also understood that arrangements negotiated under Article IV might appropriately include provision for consultation, in accordance with the principles of Article 32 of the Havana Charter for an International Trade Organization,⁶ in the event that stockpiles are liquidated.

5. It is understood that the Government of Portugal will not be requested, under paragraph 2 (a) of Article VI, to furnish detailed information about minor projects or confidential commercial or technical information the disclosure of which would injure legitimate commercial interests.

6. It is understood that the Government of the United States of America in making the notifications referred to in paragraph 2 of Article VIII would bear in mind the desirability of restricting, so far as practicable, the number of officials for whom full diplomatic privileges would be requested. It is also understood that the detailed application of Article VIII would, when necessary, be the subject of inter-governmental discussion.

7. It is understood that if the Government of Portugal should accept the compulsory jurisdiction of the International Court of Justice under Article 36 of the Statute of the Court, on suitable terms and conditions, the two Governments will consult with a view to replacing the second sentence of paragraph 1 of Article IX with provisions along the following lines: "It is understood that the undertaking of each Government in respect of claims espoused by the other Government pursuant to this paragraph is made in the case of each Government under the authority of and is limited

⁶ Unperfected. Art. 32(3) of the Havana Charter reads as follows:

"Such Member shall, at the request of any Member which considers itself substantially interested, consult as to the best means of avoiding substantial injury to the economic interests of producers and consumers of the primary commodity in question. In cases where the interests of several Members might be substantially affected, the Organization may participate in the consultations, and the Member holding the stocks shall give due consideration to its recommendations."

by the terms and conditions of such effective recognition as it has heretofore given to the compulsory jurisdiction of the International Court of Justice under Article 36 of the Statute of the Court."

8. It is understood that any agreements which might be arrived at pursuant to paragraph 2 of Article IX would be subject to ratification by the Senate of the United States of America.